



General Assembly

January Session, 2011

Raised Bill No. 1024

LCO No. 3513

03513_____ET_

Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT MODERNIZING THE STATE'S TELECOMMUNICATIONS LAWS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-247f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The department shall regulate the provision of
4 telecommunications services in the state in a manner designed to foster
5 competition and protect the public interest.

6 (b) Notwithstanding the provisions of section 16-19, the following
7 telecommunications services shall be deemed competitive services: (1)
8 A telecommunications service offered on or before July 1, 1994, by a
9 certified telecommunications provider and a wide area telephone
10 service, "800" service, centrex service or digital centrex service offered
11 by a telephone company, (2) a telecommunications service offered to
12 business customers by a telephone company, (3) a home office service
13 offered by a telephone company, and (4) a telecommunications service
14 provided by a telephone company to a residential customer who
15 subscribes to two or more telephone company services, including basic

16 local exchange service, any vertical feature or interstate toll provided
17 by a telephone company affiliate. Unless reclassified pursuant to this
18 section, any other service offered by a telephone company on or before
19 July 1, 1994, shall be deemed a noncompetitive service, provided such
20 initial classification shall not be a factual finding that such service is
21 noncompetitive. [Notwithstanding subdivision (3) of subsection (c) of
22 section 16-247b, prior to January 1, 2010, a telephone company shall
23 not obtain a waiver from the department of the pricing standard set
24 forth in subdivision (1) of subsection (c) of section 16-247b for any
25 service reclassified as competitive pursuant to subdivision (2), (3) or (4)
26 of this subsection.]

27 (c) On petition, on its own motion, or in conjunction with a tariff
28 investigation conducted pursuant to subsection (f) of this section, after
29 notice and hearing, and within ninety days of receipt of a petition or its
30 motion or within the time period set forth in subsection (f) of this
31 section, as applicable, the department may reclassify a
32 telecommunications service as competitive, emerging competitive or
33 noncompetitive, in accordance with the degree of competition which
34 exists for that service in the marketplace, provided (1) a competitive
35 service shall not be reclassified as an emerging competitive service and
36 (2) the department may extend the period (A) before the end of the
37 ninety-day period and upon notifying all parties to the proceedings by
38 thirty days, or (B) in accordance with the provisions of subsection (f) of
39 this section, as applicable.

40 (d) In determining whether to reclassify a telecommunications
41 service, the department shall consider:

42 (1) The number, size and geographic distribution of certified
43 telecommunications providers of the service, provided the department
44 shall not reclassify any service as competitive if such service is
45 available only from a telephone company or an affiliate of a telephone
46 company that is a certified telecommunications provider;

47 (2) The availability of functionally equivalent services in the

48 relevant geographic area at competitive rates, terms and conditions,
49 including, but not limited to, services offered by certified
50 telecommunications providers, providers of commercial mobile radio
51 services, as defined in 47 CFR 20.3, voice over Internet protocol
52 providers and other services provided by means of alternative
53 technologies;

54 (3) The existence of barriers to entry into, or exit from, the relevant
55 market;

56 (4) Other factors that may affect competition; and

57 (5) Other factors that may affect the public interest.

58 (e) [Each] On and after July 1, 2011, no certified telecommunications
59 provider [and each] or telephone company shall file with the
60 department a [new or amended] tariff [for each competitive or
61 emerging competitive intrastate] with respect to any
62 telecommunications service [authorized pursuant to section 16-247c. A
63 tariff for a competitive service shall be effective on five days' written
64 notice to the department. A tariff for an emerging competitive service
65 shall be effective on twenty-one days' written notice to the department.
66 A tariff filing for a competitive or emerging competitive service shall
67 include (1) rates and charges which may consist of a maximum rate
68 and a minimum rate, (2) applicable terms and conditions, (3) a
69 statement of how the tariff will benefit the public interest, and (4) any
70 additional information required by the department. A telephone
71 company filing a tariff pursuant to this section shall include in said
72 tariff filing the information set forth in subdivisions (1) to (4), inclusive,
73 of this subsection, a complete explanation of how the company is
74 complying with the provisions of section 16-247b and, in a tariff filing
75 which declares a new service to be competitive or emerging
76 competitive, a statement addressing the considerations set forth in
77 subsection (d) of this section. If the department approves a tariff which
78 consists of a minimum rate and a maximum rate, the certified
79 telecommunications provider or telephone company may amend its

80 rates upon five days' written notice to the department and any notice
81 to customers which the department may require, provided the
82 amended rates are not greater than the approved maximum rate and
83 not less than the approved minimum rate. A promotional offering for a
84 previously approved competitive or emerging competitive tariffed
85 service or a service deemed competitive pursuant to this section shall
86 be effective on three business days' written notice to the department] it
87 offers. Each certified telecommunications provider and telephone
88 company shall provide its customers with information regarding rates,
89 terms and conditions for telecommunications services in a customer
90 service guide or other manner as determined by such provider or
91 company. Before July 1, 2011, each certified telecommunications
92 company and telephone company shall withdraw any tariff currently
93 on file with the department.

94 (f) On petition or its own motion, the department may investigate a
95 tariff or any portion of a tariff, which investigation may include a
96 hearing. The department may suspend a tariff or any portion of a tariff
97 during such investigation. The investigation may include, but is not
98 limited to, an inquiry to determine whether the tariff is predatory,
99 deceptive, anticompetitive or violates the pricing standard set forth in
100 subdivision (1) of subsection (c) of section 16-247b, as amended by this
101 act. Not later than seventy-five days after the effective date of the tariff,
102 unless the party filing the tariff, all statutory parties to the proceeding
103 and the department agree to a specific extension of time, the
104 department shall issue its decision, including whether to approve,
105 modify or deny the tariff. If the department determines that a tariff
106 filed as a new service is, in fact, a reclassification of an existing service,
107 the department shall review the tariff filing as a petition for
108 reclassification in accordance with the provisions of subsection (c) of
109 this section.

110 (g) The provisions of this section shall not prohibit the department
111 from ordering different tariff filing procedures or effective dates for an
112 emerging competitive service, pursuant to a plan for an alternative

113 form of regulation of a telephone company approved by the
114 department in accordance with the provisions of section 16-247k.

115 Sec. 2. (NEW) (*Effective July 1, 2011*) The date and time of filing of
116 each document with the Department of Public Utility Control shall be
117 the date and time by which the department first receives a complete
118 electronic or paper version of such document, provided such electronic
119 or paper version is filed in accordance with section 16-1-14 of the
120 regulations of Connecticut state agencies. If payment of a fee is
121 required to accompany such document, the department shall not deem
122 a document to be filed until the department receives the fee. If a
123 document is electronically submitted outside of the department's
124 normal business hours, the department shall deem the document to be
125 filed at the time the department's offices next open. The department
126 shall not require paper versions of electronic filings to be filed, except
127 (1) at the request of the department, one paper copy shall be sent to the
128 department via regular first class United States mail, and (2) at the
129 request of any party or intervenor in a specific department docket who
130 does not have computer access, the department may request one paper
131 copy be sent to such party or intervenor via first class United States
132 mail. The department shall amend section 16-1-14 of the regulations of
133 Connecticut state agencies in accordance with chapter 54 of the general
134 statutes to comply with the provisions of this section.

135 Sec. 3. Section 16-32 of the general statutes is repealed and the
136 following is substituted in lieu thereof (*Effective October 1, 2011*):

137 Each public service company, except telegraph companies and
138 express companies subject to the jurisdiction of the Interstate
139 Commerce Commission or its successor agency and telephone
140 companies owned, directly or indirectly, by a parent company, the
141 accounts and operations of which are required to be audited annually
142 in accordance with federal law, shall have an annual comprehensive
143 audit and report made of its accounts and operations by independent
144 public accountants satisfactory to the Department of Public Utility

145 Control. A copy of such annual audit report shall be filed with the
 146 department, together with the company's annual report. In the absence
 147 of such an audit report, or if the department, after notice and
 148 opportunity for a hearing, determines that such audit report is
 149 insufficient or unsatisfactory, the department shall cause such an audit
 150 to be made at the expense of the company either by independent
 151 public accountants satisfactory to the department or by any staff of the
 152 department engaged in the activities contemplated by subsection (b) of
 153 section 16-8. When requiring a state-specific audit from a telephone
 154 company otherwise exempt from the audit required pursuant to this
 155 section because its accounts and operations are required to be audited
 156 annually in accordance with federal law, the department shall specify
 157 its reasons for requiring the state-specific audit and why the requested
 158 additional audit will provide information different than the audit filed
 159 with the annual report. The department may waive the compliance
 160 with the provisions of this section by any public service company
 161 whose annual gross income is less than one hundred thousand dollars.

162 Sec. 4. Subsection (c) of section 16-247b of the general statutes is
 163 repealed and the following is substituted in lieu thereof (*Effective*
 164 *July 1, 2011*):

165 [(c) (1) The rate that a telephone company charges for a competitive
 166 or emerging competitive telecommunications service shall not be less
 167 than the sum of (A) the rate charged to another telecommunications
 168 company for a noncompetitive or emerging competitive local network
 169 service function used by that company to provide a competing
 170 telecommunications service, and (B) the applicable incremental costs of
 171 the telephone company.]

172 [(2)] (c) (1) On and after the date the department certifies a
 173 telephone company's operations support systems interface pursuant to
 174 section 16-247n, the department shall, upon petition, conduct a
 175 contested case proceeding to consider whether modification or
 176 removal of the pricing standard [set forth in subdivision (1) of this

177 subsection for a telecommunications service deemed competitive
178 pursuant to section 16-247f] is appropriate. Notwithstanding the
179 provisions of subdivision (1) of this subsection, if the department
180 determines that such a modification or removal is appropriate and is
181 consistent with the goals set forth in section 16-247a, the department
182 shall so modify or remove said pricing standard for such
183 telecommunications service.

184 [(3)] (2) Prior to the date that the department certifies a telephone
185 company's operations support systems interface pursuant to section
186 16-247n, the department may, upon petition, conduct a contested case
187 proceeding to consider whether modification or removal of the pricing
188 standard [set forth in subdivision (1) of this subsection for a
189 telecommunications service deemed competitive pursuant to section
190 16-247f] is appropriate. Any petition filed pursuant to this subdivision
191 shall specify the geographic area in which the applicant proposes to
192 modify or remove such pricing standard. [Notwithstanding the
193 provisions of subdivision (1) of this subsection, if] If the department
194 determines that such modification or removal is appropriate, is
195 consistent with the goals set forth in section 16-247a and facilities-
196 based competition exists in the relevant geographic area, the
197 department shall so modify or remove said pricing standard for such
198 telecommunications service. In determining whether facilities-based
199 competition exists in the relevant geographic area, the department
200 shall consider:

201 (A) The number, size and geographic distribution of other providers
202 of service;

203 (B) The availability of functionally equivalent services in the
204 relevant geographic area at competitive rates, terms and conditions;

205 (C) The financial viability of each company providing functionally
206 equivalent services in the relevant geographic market;

207 (D) The existence of barriers to entry into, or exit from, the relevant

208 geographic market;

209 (E) Other indicators of market power that the department deems
210 relevant, which may include, but not be limited to, market penetration
211 and the extent to which the applicant can sustain the price for the
212 service above the cost to the company of providing the service in the
213 relevant geographic area;

214 (F) The extent to which other telecommunications companies must
215 rely upon the noncompetitive services of the applicant to provide their
216 telecommunications services and carrier access rates charged by the
217 applicant;

218 (G) Other factors that may affect competition; and

219 (H) Other factors that may affect the public interest.

220 Sec. 5. Section 16-247m of the general statutes is repealed and the
221 following is substituted in lieu thereof (*Effective from passage*):

222 [(a)] On and after July 1, [2001] 2011, a telephone company may
223 [apply to the Department of Public Utility Control to] withdraw from
224 the retail provision of a telecommunications service, [provided such
225 telecommunications service has been deemed competitive pursuant to
226 section 16-247f prior to the date such application is submitted] upon
227 thirty days' notice to the Department of Public Utility Control. Any
228 such [application] notice shall specify (1) the service that the telephone
229 company no longer wishes to provide, and (2) the geographic area or
230 areas in which the telephone company proposes to no longer provide
231 the service. [, and (3) the number of customers of the telephone
232 company that will be affected by the proposed withdrawal and a
233 discussion of ways to mitigate such impact.]

234 [(b) In considering any application by a telephone company
235 pursuant to subsection (a) of this section, the department shall
236 consider (1) the impact the proposed withdrawal will have on the
237 goals set forth in section 16-247a, (2) the impact the proposed

238 withdrawal will have on the financial, managerial and technical ability
239 of the telephone company to provide other retail and wholesale
240 telecommunications services and the quality of such services, (3) the
241 impact the proposed withdrawal will have on the rates paid by retail
242 customers for the service that the telephone company no longer wishes
243 to provide at retail, (4) the impact the proposed withdrawal will have
244 on the retail availability of such service, and (5) the impact the
245 proposed withdrawal will have on the ability of certified
246 telecommunications providers to provide a functionally equivalent
247 service at retail. The department shall not approve any such
248 application for withdrawal unless it finds that such withdrawal (A) is
249 consistent with the goals set forth in section 16-247a, and (B) is not
250 contrary to the public interest. The department shall not approve any
251 such application or authorize the withdrawal of a telephone company
252 from the provision of a telecommunications service at retail unless the
253 service that the telephone company no longer wishes to provide has
254 been deemed competitive pursuant to section 16-247f. The department,
255 in approving any such application, shall develop a method to allow
256 customers receiving such service from the telephone company to
257 choose a new provider of such service, provided the department shall
258 not order the allocation or assignment of any customer.

259 (c) Any proceeding conducted pursuant to this section shall be
260 considered a contested case, as defined in section 4-166.

261 (d) The provisions of this section shall not (1) preclude the
262 withdrawal of a competitive or an emerging competitive tariff
263 pursuant to section 16-247f, (2) preclude a telephone company from
264 withdrawing a noncompetitive service in the normal course of
265 business, or (3) apply to any certified telecommunications provider or
266 any telephone company serving fewer than seventy-five thousand
267 customers.]

<p>This act shall take effect as follows and shall amend the following sections:</p>
--

Section 1	<i>from passage</i>	16-247f
Sec. 2	<i>July 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	16-32
Sec. 4	<i>July 1, 2011</i>	16-247b(c)
Sec. 5	<i>from passage</i>	16-247m

Statement of Purpose:

To remove the requirements for telecommunication service providers and telephone companies to file certain tariffs with the Department of Public Utility Control, to clarify for telecommunications companies when a document is considered filed with the department, to eliminate a need for a paper version of a filing sent electronically, to clarify when audits are required, and to change the process for withdrawal by a telephone company of a retail telecommunications service.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]